

2006 Hazardous Waste Annual Update

LSA Document #06-556

Overview

This rule adopts seven changes to the hazardous waste management program that were published by the U.S. Environmental Protection Agency between September 8, 2005 and July 28, 2006. This rule would also change the maximum concentration for ground water protection for arsenic to 0.010 milligrams per liter (mg/L) to be consistent with the federal maximum contaminant level for arsenic that became effective on January 23, 2006, and remove an obsolete provision.

Citations Affected

329 IAC 3.1-1-7; 329 IAC 3.1-9-2

Affected Persons

Hazardous waste generators and transporters. Owners, operators and permittees of hazardous waste treatment, storage and disposal facilities.

Reasons for the Rule

This rule makes Indiana's hazardous waste program consistent with the current federal hazardous waste program and adopts the latest maximum contaminant level for arsenic in ground water for corrective action.

Economic Impact of the Rule

The net economic impact of this rule is estimated to range between minimal additional costs and limited potential savings to regulated entities in Indiana.

Benefits of the Rule

This rule will make Indiana's hazardous waste program as consistent as possible with the federal hazardous waste program.

Description of the Rulemaking Project

This rule would make Indiana's hazardous waste program as consistent as possible with the federal hazardous waste program. Indiana is authorized under 40 CFR 271 to administer the hazardous waste management program in lieu of the U.S. Environmental Protection Agency (EPA). Authorized states are required to maintain their programs current with the latest federal amendments to the program. In many cases, the federal amendments involve streamlining, cost reduction and regulatory reform. The amendments proposed in this rule will make Indiana's program consistent with the federal hazardous waste program.

Scheduled Hearings

First Public Hearing: March 20, 2007

Second Public Hearing: July 17, 2007

Consideration of Factors in IC 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could be reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- 7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant, animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

This rule is consistent with the federal hazardous waste program at 40 CFR 260 through 40 CFR 279.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments and the departments responses from the first comment period, a notice of first public hearing, and the draft rule. The Solid Waste Management Board holds the first public hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public hearing is held and public comments are heard. Once final adoption occurs, the rule must be approved by the Indiana Attorney and the Governor. If approved, the rule becomes effective 30 days after filing with the *Indiana Register*.

Federal Changes Adopted in This Rule:

This rulemaking incorporates the following amendments to the federal hazardous waste management regulations at 40 CFR 260 through 40 CFR 273, published in the Federal Register from September 8, 2005 through April 4, 2006:

Federal Register	Publication Date	Subject
70 FR 53420	September 8, 2005	Hazardous Waste Management System; Standardized Permit for RCRA Hazardous Waste Management Facilities
70 FR 57769	October 4, 2005	Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures (<i>"Headworks Exemptions"</i>)
70 FR 59402	October 12, 2005	National Emission Standards for Hazardous Air Pollutants: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II)(<i>MACT Rule</i>)
70 FR 59848	October 13, 2005	Cross-Media Electronic Reporting (<i>CROMER</i>)
71 FR 16862	April 4, 2006	Resource Conservation and Recovery Act Burden Reduction Initiative
71 FR 40254	July 14, 2006	Hazardous Waste and Used Oil; Corrections to Errors in the Code of Federal Regulations
71 FR 42928	July 28, 2006	Hazardous Waste Management System; Modification of the Hazardous Waste Program; Cathode Ray Tubes

The final rule setting the new federal maximum contaminant level for arsenic is found in the January 22, 2001 Federal Register at 66 FR 6976-7066. The rule is entitled "National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring."